IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

**ORDER**

S.B. CRIMINAL MISC.IInd BAIL APPL. NO.6920/2006
Shiv Pratap Singh V. THE STATE OF RAJASTHAN

Date of order ::: 25.1.2007

PRESENT
**HON'BLE MR. JUSTICE PREM SHANKER ASOPA**

Mr.Ajay Kumar Jain, for the applicant.
Dr.A.S. Khangarot, PP for the State assisted by Mr.A. K. Gupta, counsel for the complainant.

This is second bail application under Section 439 Cr.P.C. arising out of FIR No.594/2005 registered at Police Station Sanganer, Jaipur for the offence under Section 147, 148, 149, 323 & 307 IPC.

The first bail application was dismissed as not pressed on 21.9.2006 at that stage.

Heard learned counsel for the applicant as well as the learned Public Prosecutor and perused the challan papers and statements of injured Manish Dixit, Investigating Officer and Medical Jurist Dr.N.L. Dishania, recorded during trial after rejection of first bail application, which were made available to me during the arguments of the case..

The submission of counsel for the applicant is that the accused applicant was not named by the

informant – wife of the injured in the FIR. Subsequently also on 15.7.006 when the statement of the injured was recorded, he has not named the applicant. The wife of the injured, who was accompanying the injured at the time of incident, has levelled the allegation against Jagdish Sharma, Sarpanch and Pawan, against whom the investigating agency has not found any prima facie case. In the subsequent statement of the injured (Titamba Bayan) recorded on 30.7.2005, the injured has named the applicant and others by stating that the accused persons attacked on him by swords. As regards the present accused applicant, it has been mentioned in the said statement that the accused has fired by a country made pistol. Subsequently, the said position was also improved in the statement recorded in the trial court and it was stated that an attempt was made by the present applicant to fire. Counsel for the applicant also submits that there is no recovery of `Katta' and on the contrary recovery of some sword was made at the instance of the present applicant.

In the bail application of other co-accused Inderpal Singh, this Court on 18.10.2006 while dismissing the said application directed the trial

court to examine the injured, Investigating Officer and Dr.N.L. Disania, Medical Jurist, SMS Hospital and liberty was given to the said co-accused to file bail application thereafter.

The counsel for the present accused also submits that his case is distinguished from the aforesaid accused applicant and further in the statements of above three witnesses also, no incriminating material has come on record which implicates the accused applicant directly in the alleged incident of assault by swords. The accused was arrested in December, 2005 and he is in jail since then. Apart from above, two eye witnesses have been declared hostile. The trial of the case is likely to take long time. Lastly, counsel for the applicant submitted that this is a case of over implication and improvement in first version set out in the FIR.

Public Prosecutor assisted by Mr.A.K. Gupta has submitted that the offence is of serious nature and further the injured has still not fully recovered from the injuries sustained by him. On raising the query, Public Prosecutor has not disputed the fact that all injuries except one are said to have been caused by sharp edged weapon and the remaining said injury is

also by blunt weapon, but there is no injury caused by the bullet of country made pistol. He has also not disputed that pistol has not been recovered.

Without expressing any opinion on the aforesaid submissions on merits and demerits of the case and taking into consideration the entire facts and circumstances of the case, I am inclined to grant bail to the applicant.

It is, therefore, ordered that applicant Shiv Pratap Singh S/o Shri Samudra Singh shall be released on bail, provided he furnishes a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) together with two sureties in the sum of Rs.25,000/- to the satisfaction of the learned trial court for his appearance before that Court as and when called upon to do so during pendency of the trial against him arising out of FIR No.594/2005 registered at Police Station Sanganer, District Jaipur.

**(PREM SHANKER ASOPA) J.**

ummed/